



BILLING CODE: 4510-26-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2021-0005]

LabTest Certification Inc.: Application for Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of LabTest Certification, Inc. (LCI), for recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the agency's preliminary finding to grant this recognition.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at: <https://www.regulations.gov>, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to <http://www.regulations.gov>. Documents in the docket are listed in the <http://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693-2350 (TTY (877) 889-5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number for this *Federal Register* notice (OSHA-2017-0014). OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. For further information on submitting comments, see the “Public Participation” heading in the section of this notice titled “**SUPPLEMENTARY INFORMATION.**”

Extension of comment period: Submit requests for an extension of the comment period on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-3653, Washington, DC 20210, or by fax to (202) 693-1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, telephone: (202) 693-1999; email: meilinger.francis2@dol.gov.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, telephone: (202) 693-2110; email: robinson.kevin@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Many of OSHA’s workplace standards require that a NRTL test and certify certain types of equipment as safe for use in the workplace. NRTLs are independent laboratories

that meet OSHA's requirements for performing safety testing and certification of products used in the workplace. To obtain and retain OSHA recognition, the NRTLs must meet the requirements in the NRTL Program regulations at 29 CFR 1910.7. More specifically, to be recognized by OSHA, an organization must: (1) have the appropriate capability to test, evaluate, and approve products to assure their safe use in the workplace; (2) be completely independent of employers subject to the tested equipment requirements, and manufacturers and vendors of products for which OSHA requires certification; (3) have internal programs that ensure proper control of the testing and certification process; and (4) have effective reporting and complaint handling procedures. Recognition is an acknowledgement by OSHA that the NRTL has the capabilities to perform independent safety testing and certification of the specific products covered within the NRTL's scope of recognition and is not a delegation or grant of government authority. Recognition of a NRTL by OSHA also allows employers to use products certified by that NRTL to meet those OSHA standards that require product testing and certification.

The agency processes applications for initial recognition following requirements in Appendix A of 29 CFR 1910.7. This appendix requires OSHA to publish two notices in the *Federal Register* in processing an application. In the first notice, OSHA announces the application, provides its preliminary findings, and solicits comments on its preliminary findings. In the second notice, the agency provides its final decision on the application and sets forth the NRTL's scope of recognition.

II. Notice of the Application for Recognition

OSHA is providing notice that LabTest Certification, Inc., (LCI) is applying for recognition as a NRTL. According to public information (see <https://labtestcert.com/about-labtest/>) LCI states that it is an internationally accredited testing laboratory. In its application, LCI lists the current address of its headquarters as:

LabTest Certification, Inc., 205 - 8291 92 Street, Delta, BC Canada V4G 0A4. OSHA has determined preliminarily that LCI has the capability to perform as a NRTL as outlined in 29 CFR 1910.7.

Each NRTL's scope of recognition has two elements: (1) the type(s) of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that have the technical capability to perform the product-testing and product-certification activities for the applicable test standards within the NRTL's scope of recognition. LCI applied on January 29, 2016, for one recognized site (OSHA-2021-0005-0001). This application was amended on June 10, 2021, to remove three of the eight standards requested in the original application. LCI's original application also requested that supplemental programs be included in their recognition. However, on October 1, 2019, OSHA published an update to the NRTL Program Policies, Procedures and Guidelines Directive, CPL 01-00-004, which eliminated supplemental programs from the NRTL Program. Therefore, OSHA does not grant recognition to NRTL applicants for supplemental programs. The following sections set forth the requested scope of recognition included in LCI's application that OSHA has considered.

A. Standards Requested for Recognition

Table 1 below lists the appropriate test standards included in LCI's amended application for testing and certification of products under the NRTL Program.

Table 1

**Proposed List of Appropriate Test Standards for Inclusion in
LCI's NRTL Scope of Recognition**

Test Standard	Test Standard Title
UL 1598	Luminaires
UL 60079-0	Explosive Atmospheres – Part 0: Equipment – General Requirements
UL 60079-1	Explosive Atmospheres – Part 1: Equipment Protection by Flameproof Enclosures “d”

Test Standard	Test Standard Title
UL 60079-11	Explosive Atmospheres – Part 11: Equipment Protection by Intrinsic Safety “i”
UL 60079-15	Explosive Atmospheres – Part 15: Equipment Protection by Type of Protection “n”

B. Sites Requested for Recognition

The current address of the LCI site included in its application for recognition as a NRTL is:

1. LabTest Certification, Inc., 205 – 8291 92 Street, Delta, BC Canada V4G 0A4.

The NRTL Program requires that to be a recognized site, the site listed above must have the capability to conduct product testing in accordance with the appropriate test standard for the equipment or material being tested and certified.

IV. Preliminary Finding on the Application for Recognition as a NRTL

OSHA’s NRTL Program recognition process involves a thorough analysis of a NRTL applicant’s policies and procedures, and a comprehensive on-site review of the applicant’s testing and certification activities to ensure that the applicant meets the requirements of 29 CFR 1910.7. OSHA staff performed a detailed analysis of LCI’s application packet and reviewed other pertinent information. OSHA staff also performed a comprehensive on-site assessment of LCI’s testing facility, at LCI Delta Canada on December 11-12, 2018. An overview of OSHA’s assessment of the four requirements for recognition (i.e., capability, control procedures, independence, and credible reports and complaint handling) is provided below.

A. Capability

Section 1910.7(b)(1) states that, for each specified item of equipment or material to be listed, labeled, or accepted, the NRTL must have the capability (including proper testing equipment and facilities, trained staff, written testing procedures, and calibration and quality-control programs) to perform appropriate testing. OSHA staff performed a detailed analysis of LCI’s application packet and reviewed other pertinent information to

assess its capabilities to perform testing and certification activities. OSHA preliminarily determined that LCI has demonstrated these capabilities through the following:

- LCI's facility has adequate test areas, energy sources, and procedures for controlling incompatible activities.
- LCI provided a detailed list of its testing equipment. Review of the application shows that the equipment listed is available and adequate for the standards for which it seeks recognition.
- LCI has detailed procedures for conducting testing, review, and evaluation, and for capturing the test and other data required by the test standards for which it seeks recognition.
- LCI has detailed procedures addressing the maintenance and calibration of equipment, and the types of records maintained for, or supporting laboratory activities.
- LCI has sufficient qualified personnel to perform the proposed scope of testing based on their education, training, technical knowledge, and experience.
- LCI has an adequate quality-control system in place to conduct internal audits, as well as track and resolve nonconformances.

OSHA's on-site assessment of LCI's facility confirmed the capabilities described in its application packet. The assessors found some nonconformances with the requirements of 29 CFR 1910.7. LCI addressed these issues sufficiently to meet the applicable NRTL requirements.

B. Control Procedures

Section 1910.7(b)(2) requires that the NRTL provide controls and services, to the extent necessary, for the particular equipment or material to be listed, labeled, or accepted. These controls and services include procedures for identifying the listed or labeled equipment or materials, inspections of production runs at factories to assure conformance with test standards, and field inspections to monitor and assure the proper

use of identifying marks or labels. OSHA staff performed a detailed analysis of LCI's application packet and reviewed other pertinent information to assess its control procedures. OSHA preliminarily determined that LCI has demonstrated these capabilities through the following:

- LCI has a quality-control manual and detailed procedures to address the steps involved to list and certify products.
- LCI has a registered certification mark.
- LCI has certification procedures to address the authorization of certifications and audits of factory facilities. The audits apply to both the initial evaluations and the follow-up inspections of manufacturers' facilities.

OSHA's on-site assessment of LCI's facility confirmed the capabilities described in its application packet. The assessors found some nonconformances with the requirements of 29 CFR 1910.7. LCI addressed these issues sufficiently to meet the applicable NRTL requirements.

C. Independence

Section 1910.7(b)(3) requires that the NRTL be completely independent of employers that are subject to the testing requirements, and of any manufacturers or vendors of equipment or materials tested under the NRTL Program. The revised NRTL Program Policies, Procedures and Guidelines Directive, CPL-01-00-004, allows NRTLs to comply with the requirement in the NRTL Program regulation that NRTLs be "completely independent of employers subject to the tested equipment requirements, and of any manufacturers or vendors of equipment or materials being tested for these purposes" (29 CFR 1910.7(b)(3)) by meeting the minimum performance standards of Annex B of the NRTL Program Directive, CPL-01-00-004, with respect to impartiality. The revised policy focuses on the NRTL's ability to effectively identify, eliminate and control any risk to its impartiality.

This policy provides for the NRTL to identify risks to impartiality on an ongoing basis and when risks to impartiality are identified, and for the NRTL to demonstrate how it eliminates or minimizes such risks. OSHA staff performed a detailed analysis of LCI's application packet and reviewed other pertinent information to assess its independence. OSHA preliminarily determined that LCI has demonstrated independence through the following:

- LCI is a privately-owned organization, and OSHA found no information regarding ownership that would qualify as a conflict under OSHA's independence policy.
- LCI showed that it has none of the relationships described in OSHA's independence policy or any other relationship that could subject it to undue influence when testing for product safety.
- LCI has policies and procedures in place to identify risks to impartiality and when risks to impartiality are found, LCI has policies and procedures to eliminate or minimize such risks.

D. Credible Reports and Complaint Handling

Section 1910.7(b)(4) specifies that a NRTL must maintain effective procedures for producing credible findings and reports that are objective and free of bias. The NRTL must also have procedures for handling complaints and disputes under a fair and reasonable system. OSHA staff performed a detailed analysis of LCI's application packet and reviewed other pertinent information to assess its ability to produce credible results and handle complaints. OSHA preliminarily determined that LCI has demonstrated these capabilities through the following:

- LCI has detailed procedures describing the content of test reports, and other detailed procedures describing the preparation and approval of these reports.
- LCI has procedures for recording, analyzing, and processing complaints from users, manufacturers, and other parties in a fair manner.

OSHA's on-site assessments of LCI's facilities confirmed the capabilities described in its application packet. The assessors found some nonconformances with the requirements of 29 CFR 1910.7. LCI addressed these issues sufficiently to meet the applicable NRTL requirements.

OSHA's review of the application file and pertinent documentation, as well as the results of the on-site assessments, indicate that LCI can meet the requirements prescribed by 29 CFR 1910.7 for recognition as a NRTL for its site located in Delta, BC Canada.

OSHA's preliminary finding does not constitute an interim or temporary approval of LCI's application.

OSHA welcomes public comment as to whether LCI meets the requirements of 29 CFR 1910.7 for recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request, for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer time period. OSHA may deny a request for an extension if it is not adequately justified. To review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N-3653, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. **Please note:** Due to the COVID-19 pandemic, the Docket Office is closed to the public at this time but can be contacted at (202) 693-2350. These materials also are generally available online at <http://www.regulations.gov> under Docket No. OSHA-2021-0005. All documents in the docket (including this *Federal Register* notice) are listed in the <https://www.regulations.gov> index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office.

OSHA staff will review all comments submitted to the docket in a timely manner and, after addressing the issues raised by these comments, will make a recommendation to the Assistant Secretary for Occupational Safety and Health regarding LCI's application for recognition as a NRTL. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of this final decision in the *Federal Register*.

IV. Authority and Signature

James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 8-2020 (85 FR 58393, September 18, 2020) and 29 CFR 1910.7.

Signed at Washington, DC, on August 6, 2021.

James S. Frederick,
Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021-17434 Filed: 8/13/2021 8:45 am; Publication Date: 8/16/2021]